IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.MC.No. 5576 of 2003()

CC.1282/2003 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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PETITIONER: ACCUSED 2 & 4.

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1. NIRMALADEVI, W/O.VIPINACHANDRAN NAIR, KRISHNA DEEPAM, KAKKAZHAM P.O. ALAPPUZHA.

2. VIPINACHANDRAN NAIR, KRISHNADEEPAM, KAKKAZHAM P.O.ALAPPUZHA.

BY ADV. SRI.S.RADHAKRISHNAN

RESPONDENTS: COMPLAINANT.

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1. KAVITHA 34 YEARS, D/O.VASUDEVAN NAIR, KEERTHI HOUSE, CHANGAPUZHA NAGAR P.O. KALAMASSERI.

2. THE STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.C.ANILKUMAR (KALLESSERIL)
PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.M.C.No.5576 of 2003-B

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Dated this the 7th day of September, 2007

O R D E R

The petitioners, who are second and fourth accused (wife and husband), in C.C.No.1282/2003 in the file of the Judicial Magistrate of the First Class, Aluva, has sought for getting quashed the proceedings, as so far as they are concerned.

2. Annexure-5 is the private complaint filed by the first respondent against her husband (A1), sister-in-law(A2/first petitioner herein), husband of sister of A1(A3) and husband of A2 (A4/the second petitioner herein) alleging offences under Sections 406, 420, 498A I.P.C. It is seen from the averments in Annexure-5 complaint that as per the instructions of the first accused/husband, accused 2, 3 and 4 persuaded the complainant to handover her passport to one K.M.Pillai, the elder brother of the first accused for cancelling the family visa and that thereafter, the father of the first accused insisted for divorce on the ground that the first accused wanted to re-marry and only then the passport will be returned, and that she was also made to believe that the gold ornaments weighing 54 sovereigns kept

in the locker will be returned to her. The allegation is that the passport has not been returned. The complaint is dated 25/10/2003.

3. Annexure-4 is the translated copy of the document dated 16/11/2003 of the Director General of Moral Guidance, Dubai, where from it can be seen that the passport has been surrendered before the above authority by Mr.K.M.Pillai on the complaint of the first respondent/complainant. It is submitted that the complainant has obtained the passport and she has reached Dubai and is employed therein.

4. Annexure-2 is the order of divorce under Section 13-B of the Hindu Marriage Act, dated 25/06/2003.

5. It is seen from Annexure-5 complaint that the complainant apprehends that the passport will be misused by substituting the photograph etc. It is also pointed out that K.M.Pillai is not an accused. It is the submission of the petitioners that they have no involvement at all in the matter. Moreover, the court has taken cognizance only for the offence under Section 406 I.P.C. Evidently, the entrustment is not with the petitioners herein.

6. In the circumstances, I find that the allegations under Section 406 I.P.C against the petitioners cannot be sustained. I find that no purpose will be served by proceeding against the petitioners herein for the offence under Section 406 I.P.C.

On considering the above facts, the proceedings pending against the petitioners, i.e. A2 and A4 in C.C.No.1282/2003 in the Court of Judicial Magistrate of the First Class, Aluva, so far as the petitioners are concerned, is herewith quashed.

The Crl.M.C is disposed of as above.

K.R.UDAYABHANU,
Judge

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